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U.S.- E.U. REACH AGREEMENT ON FSC PROCEDURES

The United States and the European Union today reached an agreement regarding procedures for reviewing whether the Foreign Sales Corporation (FSC) repeal and replacement legislation, currently pending in Congress, is WTO consistent. In conjunction with the agreement, the U.S. requested an extension of the compliance period from October 1 to November 1 to allow Congress to complete passage of legislation to comply with the original WTO ruling.

“The U.S. and EU today demonstrated a commitment to avoid escalating trans-Atlantic trade tensions and managing this WTO trade dispute responsibly, while fully protecting each parties’ legal rights. The U.S. efforts to enact FSC replacement legislation represents a serious effort and demonstrates our strong and continued commitment to complying with our WTO obligations,” said United States Trade Representative Charlene Barshefsky.

“We cannot emphasize strongly enough how critical it is that Congress complete action on the FSC repeal and replacement legislation as expeditiously as possible. Enactment of this legislation is in our national interest. It is the only way to meet our obligations in the WTO and avoid an unprecedented and immediate confrontation with the European Union,” said Treasury Deputy Secretary Stuart Eizenstat.

Terms of the Agreement

The agreement signed today sets out procedural steps that will be taken after passage of the FSC replacement legislation. The procedures agreed to today are similar to those used in the Canada-Australia salmon dispute. The essential feature of the agreement provides for sequencing of WTO procedures as follows: 1) a panel will determine the WTO-consistency of FSC replacement legislation (the parties retain the right to appeal); 2) only after the appeal process is exhausted would an arbitration over the appropriate level of sanctions be conducted if the replacement legislation was found WTO-inconsistent. With few exceptions, the time frames set forth in the Dispute Settlement Understanding (DSU) for such adjudications are reflected in this agreement.

